Elmer W. Jensen—for Government—Direct

Q. Mr. Jensen, from Government's Exhibit 258 have you computed the rent that would have been payable in the year 1937 through the year 1941? A. May I have the question again, please?

(1031) Q. Have you computed the rent that was payable on apartment 18-F in 115 Central Park West for the period after October 18, 1937 through 1941? A. I have.

Q. Now, allowing for that credit which you have just referred to, was the rent payable in 1937, $305.84? A. That is correct.

Q. In 1938, $3,656.28? A. That is correct.

Q. 1939, $3,925.02? A. That is correct.

Q. 1940, $3,950.07? A. That is correct.

Q. 1941, $3,800.04? A. That is correct.

Q. Have you also computed the rent that was paid for the years 1942 through 1949? A. I have.

Q. Have you checked those figures in Government's Exhibit 258-A for identification? A. I have.

Q. Was the rent that was paid in 1942, $3,800.04? A. That is correct.

Q. $3,800.04 in the years 1943, 1944, 1945 and 1946 and 1947? A. That is correct.

Q. And in 1948 was there paid $4,032.26? A. That is correct.

Q. And in the year 1949, up until the time you relinquished the management of the building, $670? A. That is correct.

Q. Mr. Jensen, during the period 1942 through (1032) 1949, was there any other person by the name Costello living in the apartment building at 115 Central Park West? A. No.

Mr. Christy: Your Honor, may I substitute photostats for Government's Exhibit 258?

Elmer W. Jensen—for Government—Cross

The Court: You may.

Mr. Christy: No further questions.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No, I did not.

The Court: All right, sir, you are finished now. As soon as they give you your books back you may go.

The Witness: Thank you.

Mr. Fennelly: Might I ask another question?

The Court: Yes.

Mr. Fennelly: May I look at that exhibit?

Mr. Christy: He has it right there.

By Mr. Fennelly:

Q. Now, you testified I believe that you made a payment to the landlord, I mean to the tenant in 1937 of $290? A. That is right.

Q. Wasn't that in fact applied against the rent? A. No, that was a check sent to him in lieu of (1033) decorating; it was an allowance. It so indicates on there.

Q. And the amount was in lieu of decorating? A. That is right.

Mr. Fennelly: That is all.

Mr. Christy: Thank you, Mr. Jensen.

(Witness excused.)

Mr. Christy: The Government calls Lawrence Levenberg.

Lawrence Levenberg—for Government—Direct

LAWRENCE LEVENBERG, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mr. Levenberg, where do you live? A. I reside at 114-20 Queens Boulevard, Forest Hills, New York.

Q. Where do you work, sir? A. I work for the Chanin Management, Inc., 122 East 42nd Street, New York.

Q. How long have you been with Chanin? A. Approximately 27 years.

Q. Are you presently auditor for Chanin Management? A. I am.

Q. Will you tell us, briefly, what the business of Chanin Management is? A. We are in the real estate (1034) business; we manage real estate and build.

Q. Did Chanin at one time manage an apartment building at 115 Central Park West? A. Yes, sir.

Q. Were Frank and Loretta Costello tenants of that building? A. Yes, sir.

Q. Do you remember when you took over the management of that building? A. I can refer to my records?

The Court: Yes, you may.

A. We took over the management on March 1st, 1949.

Q. Do you keep a record for the rent paid by each tenant in the building, or did you at the time— A. Yes, sir.

Q. —you were managing it? A. Yes, sir.

Q. And have you got the rental card for Frank Costello? A. (Witness hands.)

(Marked Government's Exhibit 259 for identification.)

Q. Mr. Levenberg, I show you Government's Exhibit 259 and I ask you if this the record kept for the rental of

the apartment to Frank and Loretta Costello— A. Yes, sir.

Q. —by the Chanin Management? A. Yes, sir.

Q. And does it cover the period March 1949 through December 1949? A. Yes, sir.

Mr. Christy: Your Honor, the Government offers (1035) as much of 259 for identification as applies to the year 1949.

The Court: From March 1st through December.

Mr. Christy: March through December 1949.

The Court: Very well.

Mr. Fenhelly: No objection.

(Government's Exhibit 259 for identification received in evidence.)

Q. Mr. Levenberg, I show you Government's Exhibit 259 in evidence and I ask you if that record indicates that a maid's room was rented by the Costellos? A. Yes, sir.

Q. Do you have a record of the rental paid for that maid's room? A. Yes, sir.

Q. May I have it sir? A. (Witness hands.)

(Marked Government's Exhibit 259-A for identification.)

Q. I show you Government's Exhibit 259-A for identification and ask you if that is a record of the rental paid by the tenants of 115 Central Park West? A. Yes, sir.

Q. Does it include the payment, the rental for the maid's room? A. It does.

Mr. Christy: Your Honor, the Government offers Government's Exhibit 259-A for identification, (1036) and may we substitute photostats of it?

Lawrence Levenberg—for Government—Cross

The Court: You are not offering the whole book.

Mr. Christy: No. May we substitute—

The Court: You are only offering so much of the book as contains entries of payments made by the defendant.

Mr. Christy: That is correct. And I have photostats of those pages, your Honor.

The Court: All right.

Mr. Fennelly: No objection.

Mr. Christy: May we substitute these photostats of the pertinent pages of 259?

The Court: You may. 259-A.

Mr. Christy: 259-A, yes, your Honor.

The Clerk: 259-A received in evidence.

Q. Now, Mr. Levenberg, from Government's Exhibits 259 and 259-A in evidence, have you computed the total rent that was paid for the rental of the Costellos' apartment for the period March 1949 through December 1949, including the maid's room? A. Yes, sir.

Q. Is that figure $3,440? A. That is right.

Q. Mr. Levenberg, during the period which Chanin Management managed 115 Central Park West, do you know if there were any other Costellos living in that building? (1037) A. No, sir.

Q. Or any other person by the name of Costello? A. No, sir, there was not. There was only one Costello.

Mr. Christy: No further questions, your Honor.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No, sir, I did not.

Q. Would you tell me when it was that the maid's room was engaged? A. Yes, sir. It began on August 15, 1949.

Q. What was the rental per month on the maid's room? A. At the rate of $20 a month.

Q. How large an apartment is the apartment? A. Six rooms.

Q. That has no maid's room, I take it? A. I wouldn't know.

Q. I beg your pardon? A. I do not know.

Mr. Christy: Thank you, Mr. Levenberg.

(Witness excused.)

Mr. Christy: The Government calls Carlton Brugge.

(1038) CARLTON BRUGGE, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mr. Brugge, will you keep your voice up a little so the last man in the jury box can hear you? A. Yes, sir.

Q. Mr. Brugge, where do you live? A. I live in Livingston, New Jersey.

Q. Levinson? A. Livingston, New Jersey.

Q. Where are you employed, sir? A. Sun Life Assurance of Canada.

Q. How long have— A. In Newark, New Jersey.

Q. How long have you been with them? A. 28 years.

Q. Are you the branch secretary of the Sun Life Assurance Company— A. I am.

Q. —in the Newark office? Do you know if Sun Life Insurance Company wrote a policy on the life of Frank Costello? A. Yes, sir, we did.

Q. Have you brought the policy and record card with you on that? A. I have the record card. The policy is a specimen made up from our records. We don't have the original contract.

(Marked Government's Exhibits 260 and 260-A (1039) for identification.)

Q. Mr. Brugge, I show you Government's Exhibits 260 and 260-A for identification, and I will ask you to tell us what 260 is? A. It is a specimen of the policy contract that was issued to Mr. Costello.

Q. That is not an original, sir? A. No, sir.

Q. The original is in the hands of Mr. Costello? A. We do not know but we do not have it. We presume it is in his possession.

Q. But that has been reconstructed from the information that you have? A. Yes, sir.

Q. And it is similar to the original policy? A. Yes, sir.

Q. Government's Exhibit 260-A for identification, what is that, sir? A. That is the branch office premium record card.

Q. That records the payments of premium? A. Yes, sir.

Q. What is the number on Government's Exhibit 260, sir? A. 10-15-550.

Q. Is the same number recorded on Government's Exhibit 260 for identification? A. Yes, sir.

Mr. Christy: Your Honor, the Government offers at this time Government's Exhibit 260 and will restrict its offer to the front of the policy and the (1040) label on the back.

The Court: Very well.

Mr. Christy: The Government also offers Government's Exhibit 260-A for identification and will re-

strict its offer of this exhibit to only the period between 1937—October 18, 1937 and December 1, 1939.

May we substitute appropriately blocked out photostats at the close of Mr. Brugge's testimony?

The Court: You may do so.

(A pause.)

Mr. Christy: Your Honor, the Government amends that offer on Government's Exhibit 260-A to cover the period from October 18, 1937 through December 31, 1949.

(A pause.)

Mr. Fennelly: Did I understand you were offering 260-A through 1949, October 1937 through 1949? I thought you said 1939.

The Court: He did say 1939 and then amended it to include 1949.

Mr. Fennelly: No objection.

(Government's Exhibits 260 and 260-A for identification received in evidence.)

Q. Mr. Brugge, referring to Government's Exhibit 260 in evidence will you tell us the face amount of that (1041) policy? A. $20,000.

Q. Does it carry there the annual premium? A. Yes, sir. It is $816.

Q. Government's Exhibit 260-A in evidence contains a record of the payments of the premiums, is that correct? A. That is correct.

Q. Also contains a record of the interest on the loan taken out on this policy, is that right? A. Yes, sir.

Q. Is this policy presently paid up? A. Yes, sir, it is.

Q. It has not been surrendered by Frank Costello, has it? A. No, sir. It is still in force.

Q. You just testified a minute ago that the annual premium was $816? A. That is correct.

Q. Does Sun Life declare a dividend at the end of each year? A. Yes, sir, we do.

Q. In some years did Frank Costello apply these dividends against the premium payments? A. Yes, sir.

Q. From that record, 260-A in evidence, have you computed how much was paid annually as a premium allowing for the dividends which were credited against the premiums? A. Yes, sir.

Q. In 1938 was the figure $663.20? A. Yes, sir.

Q. In 1939, $656.20? A. Yes, sir.

(1042) Q. In 1940, $648.80? A. Yes, sir.

Q. 1941, $694.20? A. Yes, sir.

Q. 1942, $816? A. Yes.

Q. 1943, $816? A. Yes, sir.

Q. 1944, $708.80? A. Yes, sir.

Q. 1945, $700.80? A. Yes, sir.

Q. As of October 18, 1937, Mr. Brugge, was there a loan outstanding on that policy? A. Yes, sir.

Q. Have you computed the unpaid balance of that loan as of October 18, 1937? A. I have.

Mr. Fennelly: Just a minute. He said he had?

The Witness: Yes.

The Court: He said he has computed it.

The Witness: Yes, sir.

Q. Will you tell us what that figure is, sir? A. $4,104.65.

Q. Again looking at Government's Exhibit 260-A in evidence, in 1942 and 1943 Frank Costello paid the full premium on the insurance, is that right? A. That is correct.

Q. And he applied the dividend against the interest on that loan, is that correct? A. That is correct.

The Court: Read that question again.

(Record read.)

Q. In 1938, 1939, 1940 and 1941 the unpaid interest (1043) on the loan was added to the balance, is that correct? A. That is correct.

Q. And also in 1944, 1945 and 1946? A. Correct.

Q. That unpaid interest was added to the balance— A. Correct.

Q. —of the loan? Did Frank Costello make certain cash payments on this loan? A. Yes, he did.

Q. In 1946, in September, did he repay $3,000 on that loan? A. Yes, he did.

Mr. Fennelly: What date?

Mr. Christy: September 25, 1946.

Q. Did he make another payment? A. Yes, he did.

Q. On May 19, 1949 did he pay $198.93? A. Yes.

Q. Can you tell us when this policy became paid up?

The Court: What was the answer to that, yes?

The Witness: Yes, sir.

The Court: What was that date, May in 1949?

The Witness: May 8—

Mr. Christy: May 19, 1949, he paid $198.93.

The Court: Very well.

(Pending question read.)

A. June 24, 1946.

Q. After that date Frank Costello did not pay any further premiums? A. That is correct.

Q. However, there was still a dividend declared (1044) each year, is that correct? A. Yes, sir.

Q. Were dividends issued to him? A. A check was, yes, sir.

Q. Do you have those checks with you, Mr. Brugge? A. Yes, sir, I do.

(Four checks marked Government's Exhibit 260-B for identification.)

Q. Mr. Brugge, referring to Government's Exhibit 260-A in evidence, in 1942 and 1943 Costello paid the full premium on the insurance, is that correct? A. That is correct.

Q. He did not take an allowance for the dividend that was coming to him? A. That is correct.

Q. In 1942 the dividend amounted to $112.60, is that correct? A. Yes, sir.

Q. 1943, $104.40? A. Yes.

Q. Did he, in those two years, apply those amounts to the interest on the loan? A. They were applied towards the interest, yes.

Q. They were applied towards interest on the loan. Government's Exhibit 260-B for identification, I ask you if those are the checks which were issued to Costello in the years 1946, 1947, 1948 and 1949, representing the dividends paid to him in those years? A. Yes, they are.

(1045) The Court: May I see that again?

(Mr. Christy hands exhibit to the Court.)

Mr. Christy: Your Honor, at this time the Government offers Government's Exhibit 260-B for identification in evidence.

Mr. Fennelly: No objection.

(Government's Exhibit 260-B for identification received in evidence.)

Carlton Brugge—for Government—Cross

Mr. Christy: May I read the amounts of these checks, your Honor?

The Court: Yes.

Mr. Christy: June 27, 1946 payable to Frank Costello in the amount of $137.60. Endorsed on the back by Frank Costello and Loretta Costello.

June 24, 1947 payable to the order of Frank Costello in the amount of $42.60. Endorsed on the back Frank Costello and Loretta B. Costello.

June 25, 1948 payable to the order of Frank Costello in the amount of $42.80. Endorsed on the back Frank Costello.

June 29, 1949 payable to the order of Frank Costello in the amount of $42.80. Endorsed on the back Frank Costello, Loretta B. Costello.

Q. Mr. Brugge, referring once again to Government's Exhibit 260-A in evidence, you will note that (1046) in 1945 Frank Costello paid the full premium, is that correct? A. Yes, sir.

Q. And then was a check issued to him in the amount of the dividend? A. That is correct.

Q. So that the net premium paid in that year was $700.80, is that correct? A. Correct.

Q. And this policy is still in force, is it not? A. Yes, sir, it is.

Q. Mr. Brugge, what was the amount of that dividend that was paid in 1945? A. $115.20.

Q. 1945, sir, $115.20? A. That is right.

Mr. Christy: No further questions, your Honor.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No, sir, I did not.

Q. Now, I wonder if you can help us a little on one subject of loans on insurance policies.

An insurance company does not lend money to anyone who doesn't hold a policy, do they? I mean policyholders. I don't mean buying notes on General Motors. I am speaking of policyholders. A. That is correct.

Q. And even a policyholder is not loaned money unless he has paid an insurance company an amount of (1047) premiums, isn't that so? A. That is correct.

Q. And what proportion of the paid-in premiums of a policyholder does an insurance company lend money?

The Court: To that policyholder.

Q. With relation to the policy. A. Well, it isn't a percentage basis.

Q. Well, isn't it a fact that the loan or cash surrender value of the policy is the same? A. For all policies of the same kind, same plan and so forth, you mean?

Q. No. I am speaking of this policy. A. Would you rephrase—

Mr. Fennelly: Would you repeat the question, please?

The Court: The question is, is it not a fact that the cash surrender value and the loan value of this policy are the same.

A. The cash value and loan value? Yes, they are.

Q. So that, in other words, when we speak of a loan on an insurance policy, it is the same thing as the cash surrender value that the man could go in and take out of the insurance company on his policy? A. Yes, sir.

Q. And if he wants to reinstate, a policyholder, a policy in full amount he will then repay to the company (1048)

the amount that he borrowed and have the policy reinstated to its full face value, is that right? A. That is right.

Q. Insurance companies never lend policyholders over and above what they paid the insurance company, do they? A. No, sir.

Mr. Fennelly: That is all.

Redirect Examination by Mr. Christy:

Q. Mr. Brugge, can you tell from those records if there were any further loans made on that policy between October 18, 1937 and December 31, 1949? A. No, sir, there were no loans made at that time.

Mr. Christy: Your Honor, may I substitute photostats for these?

The Court: Yes.

Mr. Christy: Thank you, Mr. Brugge.

(Witness excused.)

Mr. Christy: The Government calls Paul Renier.

PAUL RENIER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mr. Renier, where do you live? (1049) A. 47 Bucler Place, Bergenfield, New Jersey.

Q. Where do you work, sir? A. New York Telephone Company.

Q. Are you a commercial representative with the New York Telephone Company? A. I am.

Q. How long have you worked for the New York Telephone Company? A. 47 years.

Q. Do you know if there was a phone listed in the name of Frank Costello with the New York Telephone Company? A. It was not listed.

Q. You have a record of a phone— A. I have.

Q. —for Frank Costello? A. In the name of Frank Costello.

Q. Have you got the record on that account? A. I have.

Q. May I have it, sir? A. (Witness hands to Mr. Christy.)

(Marked Government's Exhibit 261 for identification.)

Q. When you say "not listed," you mean it was not listed in the telephone book? A. That is correct.

Q. Mr. Renier, I show you Government's Exhibit 261 and ask you if that is a credit card for the phone carried in the name of Frank Costello of 115 Central Park West? A. It is.

(1050) Q. And this is the record kept by the phone company for each person with a phone? A. That is correct.

Mr. Christy: Your Honor, the Government offers Government's Exhibit 261 for identification in evidence.

Mr. Fennelly: I have no objection as far as the information as to the listing by the Telephone Company. I do have objection to the writing below it.

The Court: Is that included in your offer?

Mr. Christy: Will you indicate which writing you mean?

Mr. Fennelly: All of it, which has nothing to do with the listing.

Mr. Christy: With the exception of one line I will restrict the offer, which is the fourth line from the bottom.

The Court: What do you say about that?

Mr. Fennelly: That refers to a bank account, and they have that in evidence already.

The Court: Yes. Are you objecting to these notes?

Mr. Fennelly: Yes.

The Court: Above the tear line?

Mr. Fennelly: Yes.

(1051) Mr. Christy: Below the tear line, I believe.

The Court: No. He says above the tear line.

Mr. Fennelly: Well, if I might come and look, I thought most of it was below.

The Court: Yes. There is some writing over here.

(Conference at the bench between Court and counsel off the record.)

The Court: The offer is amended, being the face of the card above the tear line.

Mr. Christy: May we substitute a photostat at the close of Mr. Renier's testimony?

The Court: You may.

(Government's Exhibit 261 for identification received in evidence.)

Q. Does that card, Mr. Renier, indicate the date on which service was obtained by Frank Costello? A. It shows the date connected.

Q. The date connected. What date is that, sir? A. August 30, 1937.

Q. Does it also indicate that he had continuous service from that date, August 30, 1937, through December 31, 1949? A. It does.

Q. Does it also indicate, that is, Government's Exhibit 261 in evidence, that a deposit was made? (1052) A. It does.

Q. Was that $150 in 1943? A. That is correct.

Q. Mr. Renier, will you explain to the Court, just briefly, how the monthly bills for customers of the Telephone Company are prepared? A. They are prepared by our accounting department, and there are three stubs in connection with the bill; one stub goes with the customer's bill, one is retained by the commercial department, and one is retained by our accounting department.

Q. How long are these stubs, which are retained by the New York Telephone Company, how long are they retained, the period of time? A. In the accounting department they are retained for a period of three years, and in the commercial department I believe it is one year.

Q. So the longest any stub would be retained would be three years? A. That is correct.

Q. Mr. Renier, do you know if in accordance with a request from the Treasury Department a transcript of Frank Costello's stubs was prepared or an itemization of the billing? A. It was.

Q. This itemization was prepared from the stubs, is that correct? A. That is correct.

(Marked Government's Exhibit 261-A for (1053) identification.)

Q. Mr. Renier, I show you Government's Exhibit 261-A and I ask you if that is the itemization of the billing of Frank Costello prepared by the New York Telephone Company on or about July 18, 1952 from the ledger stubs then in existence? A. It is.

Mr. Christy: Your Honor, the Government offers Government Exhibit 261-A for identification into evidence and restricts the offer to the period 1948 and 1949.

Mr. Fennelly: No objection.

(Marked Government's Exhibit 261-A in evidence.)

Q. From Government's Exhibit 261-A in evidence have you computed the total bill that was paid by Frank Costello in the year 1949? A. I have.

Q. Is that figure $423.12? A. That is correct.

Q. Referring back to Government's Exhibit 261 in evidence, does that indicate that there was a refund paid to Frank Costello in 1949 on the deposit that he made in 1943? A. Just pardon me (referring to papers). It does.

Q. Mr. Renier—

Mr. Fennelly: May we have the amount and date?

Mr. Christy: I am sorry, your Honor. It was (1054) $75, paid in the year 1949.

Q. Mr. Renier, do you know what the minimum rate per month for the use of one telephone was in the years from 1938 through 1948? A. It was $4.25 per month, that is, a residence telephone, individual line.

Q. You testified that Frank Costello had continuous service from October—from August 30, 1937 through December 31, 1949, is that right? A. That is correct.

Q. And that the basic rate was $4.25 a month? A. That is correct.

Q. Therefore, in the years 1938 through 1947 he would have paid 12 times that minimum rate? A. That is correct.

Q. Of $51? A. That is correct.

Q. And he would have paid $51 during each of those years? A. That is correct.

Q. In the year 1948 he would have paid 11 times that minimum rate because the month of November, or the month of December is included in that transcript, is that correct? A. That is possible, unless there was a bill—previous bill carried on a 1948 bill.

Q. In which case it might have been 12 times? A. That is right.

(1055) Q. But at least it was 11 payments of $4.25 in the year 1948? A. That is correct.

Mr. Christy: I have no further questions, your Honor.

Cross Examination by Mr. Fennelly:

Q. Your assumption about these payments—about the bill would be that if they were paid during that year, of course, that would be the amount of the bill? A. That would be the monthly billing for the individual line.

Q. But only the records would show when in fact the bills were paid? A. That is correct.

Q. It is a fairly usual practice, is it not, to have non-listed phones? A. There is nothing irregular about it.

Q. I mean, people like J. P. Morgan and most of the people in the social register don't want their names in the phone book, to be bothered by people calling them up; they have a private listing? A. That is correct.

Q. Did you testify before the grand jury that returned the indictment in this case? A. I did not.

Mr. Fennelly: That is all.

Redirect Examination by Mr. Christy:

Q. Mr. Renier, is the New York Telephone Company (1056) in the habit of letting a customer keep a phone if he doesn't pay the bill?

The Court: Oh, come now!

Mr. Fennelly: I think the Court may take judicial notice of that.

The Court: Well—yes.

Mr. Christy: May I substitute—

The Court: You don't mean to suggest a personal experience.

Mr. Christy: May I substitute a photostat, sir?

The Court: You may.

Mr. Christy: Just a minute, Mr. Renier.

Thank you, Mr. Renier.

(Witness excused.)

The Court: Do you think you might get through somebody in about six minutes?

Mr. Christy: I have a very short witness, your Honor.

The Court: Yesterday you made good.

Mr. Christy: Give me another try.

The Court: Yes.

Mr. Christy: The Government calls Mrs. Aida Menschel.

(1057) AIDA MENSCHEL, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mrs. Menschel, will you keep your voice up so the last member of the jury may hear you?

Where do you live, Mrs. Menschel? A. 1510 Jessup Avenue in the Bronx.

Q. Are you presently employed? A. No.

Q. Did you at one time work as bookkeeper at the Weiner Pharmacy? A. Yes.

Q. Where was the Weiner Pharmacy located? A. 257 Columbus Avenue.

Q. For how long did you work there? A. Ten years.

Q. What period was that? A. February of 1941 to January 1951.

Q. You kept the books while you were there? A. Yes.

(Marked Government's Exhibit 262 for identification.)

Q. Mrs. Menschel, I show you Government's Exhibit 262 for identification and I ask you if that is a ledger sheet kept for the account of Mrs. F. Costello of 115 Central Park West at the Weiner Pharmacy? A. Yes.

(1058) Q. Is part of that in your own handwriting? A. Yes.

Q. Does it cover the period 1945 through 1949? A. Yes.

Mr. Christy: Your Honor, the Government offers Exhibit 262 for identification in evidence.

The Court: What period does the exhibit cover?

Mr. Christy: 1945 through 1949.

Mr. Fennelly: I object to it as irrelevant and immaterial, and specifically as to one notation on the top, that I don't know whether the Government is offering.

Mr. Christy: The Government will restrict its offer so as to eliminate that, your Honor.

The Court: Very well. You will substitute a photostat?

Mr. Christy: The Government will substitute a blocked out photostat.

The Court: Very well.

So that the record will be clear, let us show that the objection is overruled.

(Government's Exhibit 262 for identification received in evidence.)

Q. Mrs. Menschel, I show you Government's Exhibit 262 in evidence and call your attention to a number at the top. It says, "Sheet No. 3." There were prior (1059) sheets. I take it, for Mrs. Costello's account, is that right? A. That is correct.

Q. But they have been unable to be located, is that correct? A. I don't know.

Q. She did have an account there prior to 1945? A. Yes.

Q. And there were payments? A. Yes.

Q. Mrs. Menschel, have you made computations for the total payments made by Mrs. Costello on that account for the years 1945 through 1949? A. Yes, I have.

Q. Was the total in 1945 $64.37? A. In 1945, did you say?

Q. $64.37? A. That is right.

Q. 1946, $188.17? A. That is right.

Q. 1947, $198.10? A. That is right.

Q. 1948, $196.24? A. Yes.

Q. 1949, $287.45? A. Yes.

Mr. Christy: No further questions.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No.

Mr. Fennelly: That is all.

The Court: Did it again.

Mr. Christy: Thank you, Mrs. Menschel.

(Witness excused.)

(1060) The Court: 2.15.

Now, ladies and gentlemen, don't talk about the case. Keep your minds completely open about it. 2.15.

By the way, for your information, we will be recessing at four this afternoon. So you may make your plans on that basis. We won't sit until 4.30. We will adjourn at 4 o'clock.

(Recess to 2.15 p.m.)

AFTERNOON SESSION.

(Jury in box.)

Mr. Christy: The Government calls George Hugel.

George Hugel—for Government—Direct

GEORGE HUGEL, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mr. Hugel, where do you live? A. 231 East 235th Street, New York City.

Q. Where do you work, sir? A. 505 Fifth Avenue.

Q. What is the name of the company? A. Sentinel Agency.

(1061) Q. Are you secretary of the Sentinel Agency? A. I am.

Q. How long have you been with the Sentinel Agency? A. 35 years.

Q. Will you tell us, briefly, what the business of the Sentinel Agency is? A. Insurance brokers and agents.

Q. Have you handled insurance for Mrs. Loretta Costello? A. I have.

(Marked Government's Exhibit 263 for identification.)

Mr. Christy: May the record show that this consists of three books, Government's Exhibit 263 for identification, numbered 20, 32 and 87.

The Court: 20, 32, and 87?

Mr. Christy: Yes, sir.

Q. Mr. Hugel, I show you Government's Exhibit 263 for identification and ask you if you will tell us what they are? A. Policy registers.

Q. Policy registers? A. That is right.

Q. And they contain the information which you enter in the books when a client obtains insurance, is that correct? A. That is right.

(Marked Government's Exhibits 263-A and 263-B for identification.)

(1062) Mr. Christy: May the record note that Government's Exhibit 263-B for identification contains 11 sheets.

Q. Mr. Hugel, I show you Government's Exhibit 263-A and ask you if you will tell us what that is? A. That is a cash book.

Q. 263-A.

The Court: Cash book of Sentinel Agency?

The Witness: That is right, sir.

Q. And I show you Government's Exhibit 263-B for identification. A. Cash receipts.

Q. Those are sheets from your cash receipts ledger? A. That is right.

Q. Of the Sentinel Agency? A. That is right.

Q. On Government's Exhibit 263, do those three books carry entries for insurance obtained by Mrs. Loretta Costello for the period 1943 through 1949? A. They do.

Q. And does Government's Exhibit 263-A also refer to that insurance? A. It does.

Q. And does Government's Exhibit 263-B. reflect the payments by Mrs. Costello for that insurance for the period 1943 through 1949? A. It does.

Mr. Christy: Your Honor, the Government offers 263-B and those pages of 263 and 263-A as (1063) pertain to the entries for Mrs. Costello.

The Court: Very well.

Q. Mr. Hugel, do you have a memorandum of the page numbers in each book, and the lines, on which Mrs. Cos-

tello's entries are recorded? A. I do (handing paper to Mr. Christy).

Mr. Christy: May I show this to Mr. Fennelly? This will enable him to find the entries quickly.

The Court: Mr. Christy, I suggest that you state for the record what those pages are.

Mr. Christy: In Government's Exhibit 263-A, pages 28, 60, 97 and 137;

And in Government's Exhibit 263, book 87, page 111, item 2;

In Book 20, page 12, item 21;

Page 49, item 6; page 79, item 21;

Book No. 32, page 18, item 15; page 43, item 23.

Mr. Fennelly: I object to them as irrelevant and immaterial.

The Court: Overruled.

(Marked Government's Exhibits 263, 263-A and 263-B in evidence.)

Q. Mr. Hugel, I call your attention to book 20 of Government's Exhibit 263 in evidence and call your (1064) attention to item 6 on page 49. This is the year 1946; is that right, sir? A. That is right.

Q. Does that show what kind of car you were handling the insurance for for Mrs. Costello? A. 1941 Cadillac.

Q. I call your attention to book 20 of Government's Exhibit 263 in evidence, page 79, item 21. Does that reflect an entry for Loretta B. Costello? A. It does.

Q. Just underneath, in red ink, is written "7/24/47. Transferred to cover 1946 Ford," is that correct? A. That is right.

Q. Does that mean that the insurance previously carried on the 1941 Cadillac was transferred as of that date, 7/24/1947 to cover a 1946 Ford? A. That is right.

Q. Mr. Hugel, from Government's Exhibits 263, 263-A and 263-B have you computed the amount that was paid in each year by Mrs. Costello for insurance? A. I have.

Q. In 1943 was that figure $52.60? A. That is right.

Q. In 1944, $52.60? A. That is right.

Q. And in 1946, $97.88? A. That is right.

Q. 1947, $96.73? A. That is right.

(1065) Q. 1948, $115.88? A. That is right.

Q. 1949, $122.50? A. That is right.

Q. Mr. Hugel, how long have you been handling insurance for the Costellos, do you know? A. I'll venture to guess between 15 and 20 years.

Q. But you only have records that go back to 1944—1943, is that correct? A. That is right.

Q. So you would have no record of the payments made by them prior to 1943? A. I wouldn't.

Q. You would not? A. No.

Mr. Christy: No further questions, your Honor.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No.

The Court: Very well.

Mr. Christy: Thank you, Mr. Hugel.

(Witness excused.)

Mr. Christy: May we substitute photostats for these pages?

The Court: You may.

Mr. Christy: The Government calls Mrs. Martha Antine.

(1066) MARTHA ANTINE, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mrs. Antine, will you keep your voice up so the last member of the jury may hear you?

Mrs. Antine, where do you live? A. 1866 Loring Place, Bronx.

Q. Where do you work? A. 470 Fourth Avenue.

Q. What is the name of the company? A. John Stuart, Incorporated.

Q. Does John Stuart & Company have an affiliate known as John Widdicomb? A. Yes.

Q. How long have you worked for John Stuart? A. Seven years.

Q. Are you the office manager there? A. Yes.

Q. Will you tell us what business John Stuart and John Widdicomb are in? A. In the furniture business.

The Court: Furniture?

The Witness: Yes.

Q. Do these two companies, Stuart and Widdicomb, sell retail? A. No.

Q. Do they only sell to customers through accredited decorators or their representatives? A. That is right.

(1067) Q. When a customer wants to purchase some furniture, how is it worked, do they come in with the decorator and place an order? A. They can either do that or come in with a note, proper authority, from the decorator or the dealer.

Q. But they must come in under the auspices of a decorator? A. Yes. We don't sell directly to the people.

Q. When the furniture is shipped, is it sent to the customer? A. Yes.

Q. Do the customers generally pay Stuart or Widdicomb? A. As a rule.

Q. I beg your pardon? A. As a rule.

Q. Even though the accounts are sometimes carried in the name of the decorator? A. Yes.

Q. —payment is made by the customer? A. Yes, made for the account of the decorator or the dealer.

Q. Do you know if Mrs. Costello obtained some furniture from John Stuart or John Widdicomb? A. We have an order that was delivered to a Mrs. Costello.

Q. Do you have that order? A. (Handing paper to Mr. Christy:)

(Marked Government's Exhibit 264 for identification.) (1068)

Q. Mrs. Antine, I show you Government's Exhibit 264 for identification and I ask you if this was an order placed through Rose Harris by Mrs. L. B. Costello of 115 Central Park West? A. Yes, it was.

Q. Can you tell us the approximate date? A. December 3, 1947.

Q. This is a record that you keep of that order? A. Yes.

Mr. Christy: Your Honor, the Government offers the front of Government's Exhibit 264 for identification.

The Court: Very well.

Mr. Fennelly: I object to it as irrelevant and immaterial.

The Court: Overruled.

(Government's Exhibit 264 for identification received in evidence.)

Martha Antine—for Government—Cross

Q. Mrs. Antine, I show you Government's Exhibit 264 in evidence and I ask you if this record contains an indication of who paid the amount for that furniture? A. Yes, it does.

Q. Would you speak up just a little? A. It does.

Q. Will you tell us how much was paid in 1947? A. We received $800 from the customer.

(1069) Q. And in 1948 you received $1,552.58, is that correct? A. That is right.

Q. And that was received from the customer, who is Mrs. L. B. Costello? A. Mrs. Costello.

Mr. Christy: No further questions, your Honor. May I substitute a photostat of the first page of that?

The Court: Yes, you may.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. I have never testified before.

Q. Will you tell me what these figures are in red crayon here? A. That is the difference between the amount of money we received from the customer and the charge that was made to the dealer or the decorator, the difference of which is the dealer's or decorator's profit. That (indicating) is the amount we got from the customer; this (indicating) is the amount we got from the dealer, that is charged to the dealer.

Q. I notice on the bill under date, it is December 3—it looks like 1948 was written under it? A. That is a strikeover. I don't know what was written under it.

Q. Isn't that an 8? A. I don't know. But that (1070) is a strikeover.

Q. Isn't it 1948 under— A. It looks that way.

Q. Did you type this? A. No.

Q. Do you know when the 7 was put over the 8? A. It must have been done at the time of the editing of the order, when it was typed.

Q. Is there anything on that to indicate other than that date which has been done over what year that was in? A. Not on this. No, there is no other year date on here. No, there is no other year date on here.

Q. Have you got any other record which would show when payment was made? A. Yes.

Mr. Christy: Mrs. Antine, have you the receipts?

The Witness: I have one receipt with me, the second one.

(Witness refers to papers.)

This is the second one which shows June 28, 1948. Therefore, the December that came before that was '47.

Q. And what does the receipt indicate? Is this a receipt? A. That is our record of the receipt of a check on this date from this customer for the account of this dealer (indicating).

Mr. Fennelly: Would you mark that, please?

Q. Have you got the other? A. No.

(1071) (Marked Defendant's Exhibit II for identification.)

Q. Have you got a record showing the date of the delivery of the furniture? A. Yes.

Q. And have you got that? A. Yes. The record is par-

tially on there (indicating), showing the invoice number it originally went out on. This is the receipt.

Q. But there is no date on Exhibit 264 showing the delivery? A. No, here is the receipt, here is the first receipt (indicating). That (indicating) was the first delivery.

Q. And this (indicating) was the first delivery on the order? A. Yes.

Q. And what is the date of the first delivery on the order? A. September 1st, 1948.

Q. 1948? A. That is right.

Mr. Fennelly: I offer it in evidence.

(Marked Defendant's Exhibit JJ.)

The Court: You have no objection, I take it?

Mr. Christy: I have no objection, your Honor.

The Court: May I see it, please?

Thank you.

Q. Have you a record showing when the rest of the furniture was delivered? A. Yes.

Q. Would you let me see that, please? (1072) A. There were two subsequent deliveries. Those are the receipts.

Q. And the next delivery is October 4, 1948? A. That is right.

Q. And the third delivery— A. November.

Q. —November 15, 1948? A. That is right.

Mr. Fennelly: I offer these in evidence.

Mr. Christy: No objection.

The Clerk: Defendant's Exhibits JJ and KK received in evidence.

The Court: Let me see KK.

What is the number of that green or blue paper?

Mr. Fennelly: Defendant's Exhibit JJ.

The Court: I thought so. Have we got two marked, Mr. Clerk?

The Clerk: No, not that I know of, sir.

The Court: Suppose you take a look.

The Clerk: I am sorry. We will mark this one. That is—

The Court: Now, look. Just a minute. II is that yellow paper that the witness described as a memorandum of the receipt of a payment. JJ is this receipt which was dated September 1, 1948. KK is this receipt dated October 4, 1948. And that other paper that you have in your hand will have to take the next (1073) one which will be LL.

The Clerk: Defendant's Exhibit LL in evidence.

The Court: And that also is a receipt, is it, Mr. Fennelly?

Mr. Fennelly: I beg your pardon?

The Court: LL is also a receipt, is it?

Mr. Fennelly: A delivery record.

The Court: All right.

By Mr. Fennelly:

Q. And on Government's Exhibit 264, would you tell me what the typewritten letters mean, CBD, Balance CBD? A. Cash before delivery.

Q. Cash before delivery. And the last delivery was made in November, November 15, 1948? A. That is right.

Redirect Examination by Mr. Christy:

Q. Mrs. Antine, have you a photostat of the last receipt? A. (Witness hands.)

Q. Thank you. Mrs. Antine, again referring to Government's Exhibit 264, this date up here, 12-4 on which $800 was paid, must have been—was the year 1947; right? A. Yes.

Laurence W. Goodman—for Government—Direct

Q. And 6-28 on which the amount $1552.58 was paid was the year 1948, is that correct? A. That is right.

Mr. Christy: May I substitute a photostat, your (1074) Honor?

The Court: You may.

Mr. Christy: Thank you very much, Mrs. Antine.

The Witness: You are very welcome.

(Witness excused.)

Mr. Seymour: The Government calls Dr. Laurence W. Goodman.

LAURENCE W. GOODMAN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Seymour:

Q. Dr. Goodman, what is your occupation, sir? A. I am a veterinarian.

Q. Where is your business? A. Manhasset.

Q. Dr. Goodman, has your office ever examined any pets belonging to Mrs. Frank Costello? A. Yes.

Q. Do you have your records showing the amounts paid for those treatments? A. Yes.

Q. May I have them, sir? A. (Witness hands papers to Mr. Seymour.)

Mr. Seymour: Mark this, please?

(Marked Government's Exhibit 265 for identification.)

Q. Dr. Goodman, I show you Government's Exhibit (1075) 265 for identification. Is that a ledger card kept in your office, showing the amounts paid for— A. Yes.

Q. —treatments and examinations? A. Yes.

Q. I notice on there, Dr. Goodman, that some of the figures appear to have been altered at some point to, apparently, to reduce the amount reflected on that card.

Mr. Fennelly: Excuse me. I object.

The Court: Overruled.

Q. —can you tell us, sir; do you know how or when those corrections were made? A. I do not.

Q. As far as you know, were those corrections made at the time the original entries were made? A. I presume they were.

Mr. Seymour: I offer Government's Exhibit 265 for identification in evidence.

Mr. Fennelly: I object to it as irrelevant and immaterial.

The Court: You object, Mr. Fennelly?

I didn't hear what you said as you rose that time.

Mr. Fennelly: I said I object to it as irrelevant and immaterial.

The Court: Overruled.

(1076) (Government's Exhibit 265 for identification received in evidence.)

Q. Dr. Goodman, I hand you Government's Exhibit 265. Can you tell us, sir, from that exhibit whether your office examined a Pinscher dog for Mrs. Frank Costello, 5 Barkers Point Road, Sands Point, Port Washington, in 1945 and received payment in the amount of $2.50? A. Yes.

Laurence W. Goodman—for Government—Cross
Mary C. Clinton—for Government—Direct

Q. Can you also tell us, sir, whether during 1949 you examined and cared for a Boston Terrier also for Mrs. Frank Costello and in that year received payments in the total amount of $25? A. Yes.

Mr. Seymour: I have no further questions.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No, sir.

The Court: Very well.

(Witness excused.)

Mr. Seymour: May I substitute a photostat for that, your Honor?

The Court: You may.

(To the witness) You may take the originals.

Mr. Seymour: Thank you very much, Doctor.

The Government calls Miss Mary Clinton.

(1077) MARY C. CLINTON, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Seymour:

Q. Miss Clinton, where are you employed? A. Hicks Nurseries, Incorporated.

Q. Would you speak up, please? A. Hicks Nurseries, Incorporated at Westbury.

Q. At Westbury, Long Island? A. Yes.

Mary C. Clinton—for Government—Direct

Q. Can you tell us what your position is with Hicks Nurseries? A. I am billing clerk.

Q. How long have you been employed by Hicks Nurseries? A. For 40 years.

Q. 40 years? A. Yes.

Q. Does Hicks Nurseries raise and sell shrubs and trees— A. Yes.

Q. —for landscaping? A. Yes.

Q. Can you tell us, Miss Clinton, do the records of Hicks Nurseries show the sale of shrubs and trees to Frank Costello of Barkers Point Road, Sands Point, Port Washington? A. Yes.

Q. Do you have the records that show those sales? A. Yes, I have.

Q. May I have them? A. (Handing papers to Mr. Seymour.)

(1078) Mr. Seymour: Would you mark these?

(Marked Government's Exhibit 266 for identification.)

Mr. Seymour: The Government offers Government's Exhibit 266 for identification in evidence.

The Court: How many sheets are there, two?

Mr. Seymour: Two sheets, your Honor, but they are stapled as one exhibit.

The Court: Yes.

Mr. Fennelly: No objection.

(Government's Exhibit 266 for identification received in evidence.)

The Court: Do you have a photostat of that?

Mr. Seymour: Yes, your Honor.

The Court: You may substitute it.

Mary C. Clinton—for Government—Cross

Q. Now, Miss Clinton, I hand you Government's Exhibit 266. Looking at that record, can you tell us whether in 1944 various bushes and trees and plants were delivered to Frank Costello of Barkers Point Road and payment received for those deliveries in the total amount of $626.36? A. That is right.

Q. That is in the year 1944? A. Yes.

Q. All referring to that exhibit, Miss Clinton, were payments for deliveries made in 1945? And did such payments total $39? A. That is right.

(1079) Q. And in 1946, $88? A. That is right.

Mr. Seymour: I have no further questions, your Honor.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No.

Q. Some of these payments were made by Mrs. Costello, were they not? A. Yes. This payment, $35 was made by her.

Q. For example, on June 3rd? A. That is right.

Q. What year is that? A. 1944.

Q. A payment of $35 in cash by Loretta Costello? A. Yes. There is another one (indicating).

Q. And in the year 1946 $88 was paid by Loretta Costello, is that right? A. That is right, yes.

The Court: Any further questions?

Mr. Seymour: No, your Honor.

Thank you very much, Miss Clinton.

(Witness excused.)

Mr. Seymour: The Government calls Henry Juncker, Jr.

Henry Juncker, Jr.—for Government—Direct

(1080) HENRY JUNCKER, JR., called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct Examination by Mr. Seymour:

Q. Mr. Juncker, what is your occupation? A. I am the Comptroller of Lambert Brothers.

Q. Where is Lambert Brothers located? A. Retail jewelry store at 60th Street and Lexington Avenue.

Q. Its business is selling retail jewelry? A. That is right.

Q. Can you tell us, Mr. Juncker, whether Lambert Brothers made any sales to Mrs. L. Costello of 115 Central Park West? A. We have a record of two such sales.

Q. Do you have the records of those sales with you? A. I have them with me.

Q. May I have them? A. (Handing papers to Mr. Seymour.)

(Marked Government's Exhibits 267 and 267-A for identification, respectively.)

Q. Mr. Juncker, Government's Exhibits 267-A and 267 are duplicates of sales slips for sales to Mrs. L. Costello, is that correct? A. That is right, sir.

Mr. Seymour: I offer Government's Exhibits (1081) 267 for identification and 267-A for identification in evidence.

Mr. Fennelly: I object to them as irrelevant and immaterial.

The Court: Overruled.

(Government's Exhibits 267 and 267-A for identification received in evidence.)

Q. Now, Mr. Juncker, I show you Government's Exhibit 267. This is a duplicate sales slip to Mrs. L. Costello of 115 Central Park West, New York City; is that right? A. That is right.

Q. And it is for the purchase of a watch attachment? A. That is right.

Q. Is that a band for a watch? A. That is a band attached to a watch.

Q. And the total amount of the purchase was $12.36? A. That is right.

Q. And that was paid on September 18, 1943? A. Right.

Q. Can you tell us from that sales slip, Mr. Juncker, whether the sales was for cash? A. Yes, this sale slip indicates that the sale was for cash.

Q. Can you tell us from that sale slip, Mr. Juncker, in what form the cash was handed to the sales person? A. On this particular sale slip the amount tendered (1082) would be a $50 bill.

Q. Mr. Juncker, I show you Government's Exhibit 267-A. This is also a sale slip for Mrs. L. Costello of 115 Central Park West, is that right? A. Right.

Q. And this is for a sale of a 14-carat choker, is that right? A. That is right.

Q. That is something that goes around the neck? A. Yes.

Q. And the total price is $66.30? A. That is right.

Q. Which was paid on November 19, 1947? A. Right.

Q. Can you tell us from this slip, Mr. Juncker, whether that was a cash sale? A. This was also a cash sale.

Q. Can you tell us in what form the cash was received? A. Well, it would be either a hundred dollar bill or two fifty dollar bills.

The Court: Let me see that a minute.

(Mr. Seymour hands to the Court.)

Henry Juncker, Jr.—for Government—Cross
Lillian Mayle—for Government—Direct

Mr. Seymour: I have no further questions, your Honor.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No, I did (1083) not, sir.

Q. And, can you tell us the City sales tax on each of those items? A. The City sales tax on the first item was 12 cents. That is the sale of 1943. And on the sale of 1947 the City sales tax was a dollar and thirty cents.

Mr. Seymour: May the record note, your Honor, that the witness has referred to Government's Exhibits 267 and 267-A in that order?

The Court: Yes. Any further questions?

Very well. You may step down. All right. We will take a short recess here now, ladies and gentlemen.

(Short recess.)

Mr. Seymour: The Government calls Miss Lillian Mayle.

Lillian Mayle, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Seymour:

Q. Miss Mayle, what is your business? A. I sell cosmetics and do face treatments, facials.

Q. What is the name of your business? (1084) A. Cyclax of London.

Q. Where is your place of business located? A. No. 7 East 53rd Street.

Q. Miss Mayle, did your office sell some cosmetics and a course of face treatments to Mrs. L. Costello of 115 Central Park West? A. Yes.

Q. Do you have the records with you showing those sales? A. Yes.

Q. May I have them? A. (Witness hands.)

(Marked Government's Exhibits 268 and 268-A for identification.)

Mr. Seymour: If your Honor please, Government's Exhibit 268 for identification is a ledger held together by a string running through the punched holes.

The Government at this time offers three pages of that ledger being, specifically, the pages showing item Nos. 5229, 5246 and 5274, those pages also being identified, respectively, by the dates September 30, 1949, October 3, 1949, and October 6, 1949.

The Government also offers a card marked as Government's Exhibit 268-A for identification.

Mr. Fennelly: I object to them as irrelevant and immaterial.

The Court: Overruled.

(1085) (Government's Exhibits 268 and 268-A for identification received in evidence.)

Q. Now, Miss Mayle, referring to Government's Exhibits 268 and 268-A, do they show sales of cosmetics and a course of face treatments, payment for which was received in 1949 in a total amount of $43.16? A. Yes.

Q. Of that total amount, Miss Mayle, was 31 cents New York City sales tax? A. Yes.

Lillian Mayle—for Government—Cross
Louis Israel—for Government—Direct

Mr. Seymour: I have no further questions. I ask leave to substitute photostats for these exhibits at the close of this witness' testimony.

The Court: You may.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury? A. No.

Q. And on those slips, the cosmetics amounted to three separate items, did they of $2.25— A. Yes, just one purchase at that time.

Q. Another one of $5, another of $8? A. Yes.

Q. The other item was for a course, $25— A. Yes.

Q. —facial treatment, was it? A. Yes.

Mr. Fennelly: That is all.

The Court: Very well.

(1086) Mr. Seymour: Thank you, Miss Mayle.

(Witness excused.)

Mr. Seymour: The Government calls Mr. Louis Israel.

LOUIS ISRAEL, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Seymour:

Q. Mr. Israel, what is your business? A. Insurance broker.

Q. Where are you located, sir? A. 44 West 57th Street, New York City.

Q. Mr. Israel, have you ever sold any insurance to Mrs. Loretta B. Costello? A. I have, sir.

Q. Do you have with you the records showing that sale of insurance? A. I have, sir.

Q. May I have it? A. (Witness hands.)

Mr. Seymour: Will you mark this, please?

(Marked Government's Exhibit 269 for identification.)

Q. Mr. Israel, what type of insurance did you sell to Mrs. Costello? A. Household contents.

Q. To cover household effects? A. Yes, sir, of all kinds.

(1087) Q. Located at what premises? A. On Central Park West and 72nd Street.

Q. Was the address 115 Central Park West? A. I believe so. Majestic Apartments.

Mr. Seymour: Your Honor, the Government offers Government's Exhibit 269 for identification.

Mr. Fennelly: I object to it as irrelevant and immaterial.

The Court: Overruled.

(Government's Exhibit 269 for identification received in evidence.)

Q. Mr. Israel, I hand you Government's Exhibit 269 now in evidence. Can you tell me, sir, whether the total premiums paid for the insurance issued to Loretta B. Costello of 115 Central Park West in the year 1948 was $109.36? A. Yes, sir. $93.44, an additional premium of $15.92.

Q. Making a total of $109.36 in the year 1948? A. Yes. That is for five years that policy was written.

Q. But the payment was all received in '48? A. Yes.

Louis Israel—for Government—Cross
Mortimer Bogue—for Government—Direct

Mr. Seymour: I have no further questions, your Honor.

(1088) *Cross Examination by Mr. Fennelly:*

Q. Did you testify before the grand jury that returned the indictment in this case? A. I did not, sir.

The Court: Very well. You may go, sir.
The Witness: Thank you.

(Witness excused.)

Mr. Seymour: May I substitute a photostat, your Honor?
The Court: You may.
Mr. Christy: The Government calls Mortimer Bogue.

Mortimer Bogue, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mr. Bogue, where do you live? A. I live in Flushing, Long Island.

Q. Do you have an address there, sir? A. I beg your pardon?

Q. Do you have an address there? A. 4225 156th Street.

Q. Are you superintendent of the vault at the Hudson River Branch of the Corn Exchange Bank? (1089) A. I am.

Q. How long have you worked for the Corn Exchange Bank? A. Approximately 50 years.

Mortimer Bogue—for Government—Direct

Q. Are you familiar with the records of the Corn Exchange Bank? A. I am.

Q. Do you know if the Corn Exchange Bank rented two safe deposit boxes to Mrs. Costello? A. I do.

Q. Do you have the record for those, sir? A. (Handing papers to Mr. Christy.)

(Marked Government's Exhibits 270 and 270-A for identification.)

Mr. Christy: May the record note that Government's Exhibits 270 and 270-A for identification each consist of two cards?

Q. I show you Government's Exhibits 270 and 270-A for identification and ask you if those are the records kept for the rental of safe deposit boxes to Mrs. Loretta Costello, of 115 Central Park West? A. They are.

Q. Specifically, Government's Exhibit 270-A for identification, the rental of safe No. 501?

The Court: This is 270?

Mr. Christy: 270 for identification, your Honor.

The Court: 501?

Mr. Christy: Safe deposit No. 501.

(1090) Q. (Continuing) Under date of March 15, 1943. Is that correct, sir? A. That is right.

Q. And Government's Exhibit 270-A for identification records the rental of safe No. 9, September 7, 1945, to Mrs. Loretta Costello of 115 Central Park West, is that correct, sir? A. That is right.

Q. Government's Exhibit 270 for identification runs through the year 1949? That would be from 1943 to 1949? A. '49, that is right.

Q. And Government's Exhibit 270-A for identification runs from the year 1945 through 1950? A. That is right.

Mr. Christy: Your Honor, the Government offers Government's Exhibits 270 for identification and so much of 270-A for identification as covers the years 1945 through 1949.

Mr. Fennelly: I object to them as irrelevant and immaterial, and I think as to one the date of birth of Mrs. Costello is immaterial to the inquiry.

The Court: I should think so.

Mr. Christy: May we substitute—

The Court: And that appears on which of these exhibits?

Mr. Fennelly: 270. It is on the second card, I believe, your Hon , the signature card.

(1091) The Court: Yes. I take it you have no objection?

Mr. Christy: I have no objection. May I substitute a photostat?

The Court: With the correction, they may be received. The objection as to relevancy and materiality is overruled.

(Government's Exhibits 270 and 270-A for identification, received in evidence.)

Q. Mr. Bogue, from Government's Exhibits 270 and 270-A in evidence have you computed the totals that were paid for the rental of these two boxes? A. On that safe 501 for 1943—

Q. Is that $8.40? A. $8.40, all told, including taxes.

Q. 1944 was $8.40? A. $8.40.

Q. 1945 total was $16.80? A. Correct. That includes the two boxes.

Q. Yes. In 1946, $16.80? A. Right.
Q. 1947, $16.80? A. Right.
Q. 1948, $20.40? A. Correct.
Q. 1949, $20.40? A. Correct.

Mr. Christy: No further questions.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that (1092) returned the indictment in this case? A. I did not.

Q. And have you a record of the person who visited the box? A. We not keep a record of those who visit the boxes.

Q. The only one who may come to the boxes is the person in whose name the box is kept, isn't that right? A. Unless it is a deputy, authorized—

Q. Yes? A. —to have access.

Q. Is there any deputy authorized on those cards?

The Court: If a deputy had been authorized, would that deputy's name appear on those cards?

The Witness: It would, yes.

A. No deputy appears on these cards.

Q. I show you Government's Exhibit 42, which is the signature card on the account of Loretta B. Costello? A. Yes.

Q. At the Corn Exchange Bank & Trust Company, and it would appear—it is dated September 7, 1937, and there has been testimony that that was the day that account was opened. On the corner it appears, doesn't it, that that account was opened by a check of Loretta Costello on your West 86th Street branch? A. Of course, that is not in the safe deposit department. I wouldn't—couldn't answer that.

Q. Isn't that what appears on the record? (1093) A. Well—

Mr. Fennelly: May I read it to the jury?

The Court: If there is anything on the exhibit that you desire to read, you may read it.

Mr. Fennelly: There appears on this exhibit, "Introduced by own check on West 86th Street Br."

Q. "Br" is branch, is it not? A. Br stands for abbreviation for branch.

Q. The Corn Exchange Bank did have a branch on West 86th Street in 1937, did it not? A. That is right.

Q. And this letter, Defendant's Exhibit GG-2, that was written by one of the officers of your bank, was it not? A. It looks very much like it.

Mr. Fennelly: That exhibit, ladies and gentlemen, is a letter from the Corn Exchange Bank to Lord & Taylor on that account and states that, referring to the account at the Corn Exchange Bank, "This account opened in September 1937 and previous to that time was maintained at one of our other branches."

The Court: Any further questions?

Mr. Christy: No, your Honor.

Thank you, Mr. Bogue.

The Witness: You are welcome.

The Court: You may go.

(Witness excused.)

(1094) The Court: We will adjourn now until 10:30 on Monday morning.

(To the jury). And remember the instructions:

Don't talk about the case among yourselves or with anybody else. Keep your minds completely open until all the evidence is in.

I hope you enjoy the weekend.

(Adjourned to Monday, April 26, 1954, at 10.30 a.m.)

(1095) New York, April 26, 1954;
10.30 o'clock. a.m.

Trial resumed.

(Jury present.)

The Clerk: If there are any witnesses present in the courtroom at this time, you will please retire to the witness room.

Mr. Christy: Your Honor, before we begin I would like to make a statement for the record.

This morning I handed the clerk some exhibits, which I asked him to mark, which we expect to use later today. They are Exhibits 271 and 271-A through 271-11 for identification.

The Court: Very well.

Mr. Christy: I thought we could save some time.

The Court: That is a good idea.

Mr. Christy: The Government calls Miss Rita Meyer.

Rita Meyer—for Government—Direct

RITA MEYER, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Miss Meyer, will you keep your voice up just a (1096) little bit so the last juror can hear you? A. Surely.

Q. Where do you live, Miss Meyer? A. At 81 East 79, New York City.

Q. Where do you work? A. At Wycombe, Meyer, 216 East 45, New York City.

Q. Are you a partner in Wycombe, Meyer? A. Yes.

Q. Will you tell us, please, what Wycombe, Meyer Company is? A. We manufacture upholstered furniture and sell it to the trade at wholesale.

Q. You sell wholesale? A. That is right.

Q. You don't sell directly to the customers? A. No.

Q. Is that correct? A. That is correct.

Q. Miss Meyer, when a person wants to buy some furniture from Wycombe, Meyer, do they come in with a decorator? A. That is right.

Q. And the person would select the furniture? A. Yes, with the decorator.

Q. Is that right? And a bill would be prepared? A. Yes.

Q. And the bill is generally sent to the decorator? A. That is correct.

Q. And you carry your accounts in the name of the decorator? A. That is right.

(1097) Q. Does the bill sometimes go directly to the customer? A. Frequently.

Q. And the duplicate bill is retained by Wycombe, Meyer? A. Yes.

Q. Now, Miss Meyer, when the bill is paid, the bill having been rendered to the decorator, is it frequently paid by the customer? A. Yes.

Q. Miss Meyer, has Wycombe, Meyer, ever sold any furniture through a decorator named Rose Harris to a Mrs. Costello? A. Yes.

Q. Do you have the records for that sale? A. I do.

Q. May I have them, please? A. (Handing papers to Mr. Christy.)

Mr. Christy: Mark these.

(Marked Government's Exhibits 272 and 272-A for identification.)

Q. Miss Meyer, I show you Government's Exhibit 272 for identification and ask you if that is a duplicate of a bill for the sale of furniture through the decorator Rose Harris, which was delivered to Mrs. L. Costello? A. Yes.

Q. What is the date on that? A. One is dated March 29, 1949.

Q. And is this a duplicate bill? A. Yes, carbon copy, (1098) duplicate in number.

Q. I show you Government's Exhibit 272-A for identification and ask you if that is a duplicate bill of part of the same sale through Rose Harris and delivered to Mrs. L. Costello, 115 Central Park West? A. Yes.

Q. And is the date on that April 8, 1949? A. Yes.

Mr. Christy: Your Honor, the Government offers Government's Exhibits 272 and 272-A for identification and restricts its offer to the typewritten description of the furniture and figures, eliminating the pencil notations on the left of 272 and at the bottom of 272-A.

Mr. Fennelly: I object to them as irrelevant and immaterial.

The Court: Overruled.

(Government's Exhibits 272 and 272-A for identification received in evidence.)

(Government's Exhibit 272-B marked for identification.)

Q. Miss Meyer, when payment is made for the furniture purchased, is it entered in a cash book? A. Yes.

Q. And is it entered under the name of the decorator? A. The decorator, yes.

(1099) Q. I show you Government's Exhibit 272-B for identification and call your attention to page 36. Does that show an entry for Rose Harris? A. Yes.

Q. I call your attention to pages 44 and 45 and ask you if they also show entries for the account of Rose Harris? A. Yes.

Q. And this is your cashbook in which the— A. Payments are recorded.

Q. —record of payment is entered? A. That is right.

Mr. Christy: Your Honor, the Government offers pages 36, 44 and 45 of Government's Exhibit 272-B for identification.

The Court: All right. Mark them 272-B 1, 2 and 3.

Mr. Christy: And may the Government substitute photostats both for Government's Exhibits 272 and 272-A, and also for these pages in the cashbook, Government's Exhibit 272-B?

The Court: You may. That will be 272-B-1, 272-B-2 and 3. What were those pages again? 36—.

Mr. Christy: 36, 44 and 45.

The Court: Thank you.

272-B-1 is page 36. 272-B-2 is page 44. 272-B-3 is page 45.

(1100) Mr. Fennelly: I object to it as irrelevant and immaterial.

The Court: Overruled.

(Government's Exhibits 272-B-1, 272-B-2 and 272-B-3 for identification received in evidence.)

Q. Miss Meyer, on Government's Exhibit 272-B-1 is there an entry on February 2, 1949 showing payment? A. Yes.

Q. And on Government's Exhibit 272-B-2 an entry for Rose T. Harris on April 4, 1949? A. Yes.

Q. And on Government's Exhibit 272-B-3 an entry on April 13 for Rose T. Harris? A. Right.

Q. Now from Government's Exhibits 272 and 272-A, B-1, 2 and 3 can you tell us the total of the purchases made for Mrs. Costello? A. Yes. $2992.52.

The Court: What was that figure?

The Witness: 2992.52.

Q. $2992.52, is that correct? A. That is correct.

Q. Does this show—

The Court: When? What year?

The Witness: 1949.

The Court: All in 1949?

The Witness March and April, yes.

Q. Referring to Government's Exhibit 272 in evidence, that shows "To be delivered to Mrs. L. Costello, 115 Central (1101) Park West", is that correct? A. That is correct.

Q. On Government's Exhibit 272-A it says "To be delivered to Mrs. L. Costello, 115 Central Park West"? A. That is right.

Q. Were the items listed on Government's Exhibits 272

and 272-A in evidence delivered to Mrs. Costello? A. Yes, they were.

Mr. Christy: Your Honor, may we substitute photostats for 272 and 272-A?

The Court: You may.

Mr. Fennelly: May I cross examine from the original exhibits, please?

The Court: Yes.

Mr. Christy: I have no further questions, your Honor.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No, sir.

Q. Now could you tell us the dates of payment of these items? A. Yes, if I refer—

The Court: Yes. If you need any book—

The Witness: I have copies here.

Q. Do you need your ledger? A. No, I have them right here from the cashbook. There is a $200 payment on February 2nd as a deposit and a second one of $200.

(1102) Q. Was that by check? A. To the best of my knowledge. We don't make a notation.

Q. And the next item? A. Another $200 of the same day as deposit. $1690.81 on April 4, 1949, and $1201.71 on April 4, 1949, and $1201.71 on April 13, 1949.

Q. Would you show me where the last item is on your ledger card? A. Here (indicating).

Mr. Fennelly: Excuse me a minute until I get my glasses.

Mr. Christy: Your Honor, may the record state that Miss Meyer is referring to the cashbook and not the ledger card?

The Court: Yes. It appears to be page 45, isn't that right?

Mr. Fennelly: That is the exhibit—

The Court: Well, it is 272-B that she is looking at, that page which was marked—

Mr. Christy: 272-B-3.

The Court: Which is page 45 of the cashbook.

Q. And what does the 300 in a circle mean above that? A. 300 was debited from it and used for sales expenses and $901.71, the balance, deposited.

The Court: Would you keep your voice up, please?

A. $300 of it was debited and used for sales expenses (1103) and the balance of $901.71 was deposited.

The Court: That is a matter of your own disposition of what came in?

The Witness: That is right, exactly.

Q. Now some of the items on here were for repair of the furniture; is that correct? A. That is correct.

Q. And it is fairly usual, is it not, that after people have been married for over 30 years that their furniture starts needing repairs? A. I would think so.

Mr. Christy: Thank you very much, Miss Meyer.

The Witness: You are very welcome.

(Witness excused.)

Mr. Christy: The Government calls Mrs. Rose Harris.

Rose Harris—for Government—Direct

ROSE HARRIS, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mrs. Harris, may I ask you to keep your voice up a little so the last man in the jurybox may hear you? Where do you live? A. Teaneck, New Jersey.

Q. Do you have a street address? A. 900 Queen Anne Road.

(1104) Q. Mrs. Harris, at one time were you an interior decorator? A. Yes, I was.

Q. As an interior decorator did you have access to various wholesale houses in and about New York City? A. Yes, I did.

Q. In particular did you have access to Wycombe, Meyer & Company? A. Yes, I did.

Q. Mrs. Harris, did you have occasion to take a Mrs. Loretta Costello of 115 Central Park West in to Wycombe, Meyer at one time? A. Yes, I did.

Q. Do you remember approximately when that was? A. No, I do not.

Q. Mrs. Harris, I show you Government's Exhibit 272-A in evidence, which is a duplicate bill from Wycombe, Meyer & Company. It has your name, Rose T. Harris, on it, and it is dated April 8, 1949. Does that refresh your recollection about the time you took Mrs. Costello in to— A. Yes.

Q. —Wycombe, Meyer? A. That would be about the time.

Q. Did Mrs. Costello purchase some furniture at Wycombe, Meyer? A. Yes, she did.

Mr. Fennelly: I object to it as irrelevant and immaterial.

The Court: Overruled.

Rose Harris—for Government—Cross
Frank Nebenburgh—for Government—Direct

(1105) Q. Mrs. Harris, Government's Exhibit 272 and Government's Exhibit 272-A in evidence are bills rendered by Wycombe, Meyer to Rose Harris with a notation that the furniture is to be delivered to Mrs. L. Costello. Did you pay the bills for this furniture? A. No, I did not.

Q. Did Mrs. Costello pay these bills? A. I believe she—yes, she did.

Q. But you didn't pay them? A. No, I did not.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. Did I?

Q. Yes. A. No, I did not.

Mr. Christy: No further questions.

The Court: Very well.

Mr. Christy: Thank you very much, Mrs. Harris.

(Witness excused.)

Mr. Christy: The Government calls Frank Nebenburgh.

FRANK NEBENBURGH, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mr. Nebenburgh, where do you live? A. 2280 Boulevard, Jersey City.

(1106) Q. What is your occupation, sir? A. I am a plumber.

Q. Mr. Nebenburgh, have you ever done any work at the apartment of the Costellos in 115 Central Park West? A. I did.

Q. Mr. Nebenburgh, do you keep a record of the work you do? A. Yes.

Q. Do you have that record for the work done at the Costellos with you? A. I have.

Q. May I have it, sir? A. (Handing paper to Mr. Christy.)

(Marked Government's Exhibit 273 for identification.)

Q. Mr. Nebenburgh, I show you Government's Exhibit 273 for identification and I ask you if that is a record of work you did at the Costello apartment at 115 Central Park West? A. It is.

Q. It is. Does it have a date on there? A. There is a date.

Q. Will you tell us what year it was? A. 1949.

Q. This is the record that you keep? A. That is right.

Q. Of the work you do, right? A. Yes.

Mr. Christy: Government offers Government's Exhibit 273 for identification.

(1107) May we substitute a photostat, your Honor?

The Court: You may.

Mr. Fennelly: I object to it as immaterial and irrelevant.

The Court: Overruled.

(Government's Exhibit 273 for identification received in evidence.)

Frank Nebenhurgh—for Government—Cross

Q. Mr. Nebenhurgh, I show you Government's Exhibit 273 in evidence and ask you if you will tell us how much was paid in the year 1949? A. $51

Q. Did that appear on the back of the exhibit? It does.

Q. Is that in a code that is kept by you? A. Yes.

Q. Was $51? A. Right.

Mr. Christy: No further questions.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No, I didn't.

Q. I notice on Government's Exhibit 273 that it is all in ink except the words "Completed as per schedule on job." What's that (indicating)? A. "45-A."

Q. "October 26, 1949." Whose handwriting is the (1108) pencil in? A. That is mine.

Q. And is the ink yours? A. Yes.

Q. When did you put this on? A. Well—

Q. The words "Completed as per schedule on job," the ones that are in ink? A. When my monthly statements are made up, I make a notation.

Q. I notice there is an erasure under the date. What was on there before, do you know? A. It was October 26th but it must—possible—I don't recollect exactly.

Q. There is an erasure? A. It appears that way.

Q. And was there a different date on there before? A. Not to my knowledge.

The Court: Are you the one who made whatever entries appear on that card?

The Witness: Yes, sir.

The Court: All right.

Any further questions?

Paul D. Bromberg—for Government—Direct

Mr. Fennelly: No further questions.

Mr. Christy: No further questions.

Thank you very much, Mr. Nebenburgh.

(Witness excused.)

Mr. Christy: Your Honor, the Government calls Mr. Paul Bromberg.

(1109) Paul David Bromberg, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mr. Bromberg, where do you live? A. Miami Beach, Florida.

Q. What is your occupation, sir? A. Certified public accountant.

Q. Were you at one time connected with the Hollywood Beach Hotel? A. I was.

Q. And when were you there, sir? A. From June 1, 1951 to May 1, 1953.

Q. Were you the treasurer and then vice-president of that hotel? A. That is right.

Q. Were you familiar with the books and records of that hotel? A. I was.

Q. And do you still have a connection with that hotel? A. I do.

Q. From your records, do you know if Mr. and Mrs. Costello were guests of the hotel at one time? A. I have records of the Costellos being guests at the hotel, yes.

Q. Do you have those records, sir? A. I do.

Paul D. Bromberg—for Government—Direct

(Marked Government's Exhibits 274 and 274-A for identification.)

(1110) Mr. Christy: May the record show that Government's Exhibit 274-A consists of seven folio sheets.

Q. Mr. Bromberg, you have Government's Exhibit 274 for identification. Will you tell us what that is? A. Registration card for guests at the Hollywood Beach Hotel.

Q. Does it—

Mr. Fennelly: Your Honor, it would appear that this witness was not with the hotel at that time, according to his present testimony.

The Court: Yes, but he has testified—what is the date of this?

The Witness: March 1, 1946.

Q. Mr. Bromberg, are you familiar now with the books and records of the Hollywood Beach Hotel? A. I am.

Q. When you were there in 1951 you were familiar with them? A. That is right.

Q. When you were there in 1951 were you familiar with the books and records that were kept in 1946? A. That is right.

The Court: Is this card, that is marked 274, one of the records which was part of the record of 1946 as you knew them in 1951?

(1111) The Witness: Yes, your Honor.

Q. And Government's Exhibits 274 and 274-A were records kept in the regular course of the hotel's business, isn't that right? A. That is right.

Q. It was the regular course of the hotel's business to keep such records? A. It is required.

Q. Getting back to Government's Exhibit 274 for identification, is that a registration card for the account of Mrs. Loretta Costello? A. That is right.

Q. Of 115 Central Park West? A. New York City.

Q. And what is the date on that? A. March 1, 1946.

Q. I show you Government's Exhibit 274-A for identification and ask you if those are the folio sheets on which the records of charges for that visit of Mrs. Costello were kept? A. That is right.

Q. And the first entry on there is March 1, 1946? A. That is right.

Q. Is that correct?

Mr. Christy: Your Honor, the Government offers Government's Exhibits 274 and 274-A for identification in evidence, and may we substitute photostats?

The Court: You may.

(1112) Mr. Fennelly: That part of Exhibit 274 that relates to Mrs. Costello I object to as irrelevant and immaterial, not the part that pertains to Mr. Costello.

The Court: Overruled.

(Government's Exhibits 274 and 274-A for identification received in evidence.)

Q. Mr. Bromberg, the name of the hotel in 1946 was the Hollywood Beach Hotel and Gulf Club, Inc., is that correct; that is the name carried on those folios? A. That is right.

Q. Now from the folio sheets, Government's Exhibit 274-A in evidence, can you tell us on what date Frank Costello checked into the hotel? A. March the 6th, 1946.

Q. Does that record also indicate on what date he checked out? A. On March 14, 1946.

Q. And on what date did Mrs. Costello check out? A. March 23, 1946.

Q. Those folio sheets, Government's Exhibit 274-A, are a record of the charges on that account, is that correct? A. Against the guest, that is right.

Q. Do you know or have you computed the total payments made for this visit by Frank and Loretta Costello? A. I have.

(1113) Q. Will you tell us what that figure is? A. $1832.67.

Q. $1832.67? A. That is right.

Q. And that bill is marked "Paid," is it not, sir? A. That is right.

Mr. Christy: No further questions, your Honor.

Cross Examination by Mr. Fennelly:

Q. Did you testify before the grand jury that returned the indictment in this case? A. No, sir.

Mr. Fennelly: That is all.

Mr. Christy: No further questions. Thank you very much, Mr. Bromberg.

The Witness: Okay.

(Witness excused.)

Mr. Christy: The Government calls Walter P. Barnes.

Walter P. Barnes—for Government—Direct

WALTER P. BARNES, called as a witness on behalf of the Government, being duly sworn testified as follows:

Direct Examination by Mr. Christy:

Q. Mr. Barnes, where do you live? A. Arlington Hotel, Hot Springs, Arkansas.

Q. Are you employed at the Arlington Hotel? A. I am associate manager.

Q. How long have you been at the Arlington Hotel? (1114) A. Since '37.

Q. Now the Arlington Hotel in the course of its business keeps registration cards and folio sheets for visits of various guests, does it not? A. That is right.

Q. Does it keep also arrival and departure books? A. Yes.

Q. And information sheets? A. Information book.

Q. Information book? A. It has the sheets in it, that is right.

The Court: Will you keep your voice up a little, Mr. Barnes, so that that last juror can hear you?

The Witness: Yes, all right.

Q. How long are the registration cards and folio sheets maintained? A. Five years.

Q. And then what happens to them, sir? A. They are destroyed.

Q. Your arrival and departure books and information books are more permanent records? A. We keep those.

Q. You keep those? A. Yes.

Q. And do you also keep cash books? A. Yes.

(Government's Exhibit 275 marked for identification.)

Walter P. Barnes—for Government—Direct

Mr. Christy: May the record indicate that Government's Exhibit 275 consists of 15 sheets.

(1115) Q. Mr. Barnes, I show you Government's Exhibit 275 for identification and I ask you if these are the information sheets kept by the Arlington Hotel? A. They are.

Q. And what is the date on the first sheet? A. November 21, 1937.

Q. And will you tell us the date in the upper lefthand corner on the last sheet? A. November 16, 1941.

Q. November 16, 1941? A. That is the last sheet.

Q. So those information sheets cover the period from November 1937 through 1941? A. They do.

Mr. Christy: Mark these as one exhibit.

The Court: What do these purport to be? Cash books?

Mr. Christy: No, your Honor. These are the arrival and departure books.

The Court: Arrival and departure books. And how many of them are there?

Mr. Christy: There are ten books. May we mark them as one exhibit?

The Court: I take it you are going to ask for some entries that appear in there. Very well. Now mark this exhibit—

The Clerk: 275-A for identification.

(1116) (Marked Government's Exhibit 275-A for identification.)

The Court: And any entries from them will be 275-A, sub 1, sub 2, for as many as there are.

Mr. Christy: I have the photostats of the pertinent pages in the book.

The Court: Very well. They will be marked in that way then.

Q. Mr. Barnes, I show you Government's Exhibit 275-A for identification consisting of ten books, and I ask you if those are the arrival and departure books of the Arlington Hotel? A. They are.

Q. What period do they cover? Will you give us the month on the first book? A. They start May 13th—no: May 13, 1942.

Q. Is the first entry March 8, 1942? A. March 8, 1942.

Q. What is the entry on the last book? A. The closing entry?

Q. Yes. A. April 23, 1944.

Q. So with the information sheets and the arrival and departure books you have a continuous record from November 1937 through the date April 1944, is that correct? A. That is right.

Q. Do these sheets reflect visits by Frank Costello? (1117) A. They do.

Q. Do you know Mr. Costello? A. Yes.

The Court: I didn't hear you, sir, and I am sitting alongside of you.

A. Yes.

The Court: And the jurors can't.

Q. Will you point him out, sir? (Defendant stood up) A. The third man back there (indicating).

Q. Have you seen him in the Arlington Hotel during the years 1937 through 1944? A. I have, yes.

Q. Are the entries in these information sheets and departure books in the name of Costello or F. Costello

entries for the Frank Costello you just identified? A. That is right.

Q. And these arrival and departure sheets and information sheets list the date of arrival and the date of departure, is that correct? A. They do.

Mr. Christy: Your Honor, the Government offers Government's Exhibit 275 for identification in evidence, consisting of 15 sheets, and Government's Exhibits 275-A, restricting its offer at this time to those sheets.

The Court: Well, why don't you indicate for the record what pages in those records you are offering?

Mr. Christy: Very well.

(1118) The Court: You are offering various pages, at least one from each of the books denominated 275-A?

Mr. Christy: That is right, your Honor.

The Court: Such sheets as you have photostats for.

Mr. Christy: I can specify them by book number and page number.

The Court: You may do that if you wish, but I don't think you need to do that as long as you have photostats of them. But you may if you wish.

Mr. Christy: I have photostats.

The Court: Very well.

Mr. Christy: For the record, let me state that these are arrival and departure books. The first book is the arrival book, the second book is the departure book. They are each numbered together. The arrival book is numbered 56 and the departure book is numbered 56 and so on, both numbered together.

In arrival book 56 at this time we offer page 25. Departure book 56 we offer page No. 62.

Arrival book No. 58, page 59. Departure book 58—

The Court: Wait a minute. Each page—you have ten separate pages.

Mr. Christy: I have, your Honor.

The Court: All right. 275-A-1 will be page 25.

(1119) 275-A-2 will be page 62.

Mr. Christy: That is right.

The Court: All right, just go along like that.

Mr. Christy: The next one is page 59.

The Court: Of what book?

Mr. Christy: Of book 58. The next one is page 81 of book 58. The next one is page 22 of book 60. The next one is page 52 of book 60.

The next one is page 139 of book 62. The next one is page 15 of book 62.

The next one is page 87 of book 64. And the last one is page 95 of book 64.

While the clerk is marking these I will show the original books which have the pages indicated to Mr. Fennelly.

The Court: Fine.

The Clerk: Government's Exhibits 275-A-1 through 275-A-10 for identification.

The Court: Those are offered in evidence.

The Clerk: Offered in evidence?

Mr. Christy: Yes.

Your Honor, on Government's Exhibit 275, which are the information sheets, I would like to substitute photostats.

The Court: You may.

(1120) Mr. Christy: For the record may I explain that there are 15 sheets in Government's

Exhibit 275. There will be 10 photostats because one page is—there are entries on both sides of the page and the photostats will be arranged in chronological order, and stamped together.

The Court: Very well.

Now while counsel are looking at those we will take a little recess here. And you may have time to look at them.

(Short recess.)

1121 (Jury present.)

Mr. Fennelly: No objection.

(Government's Exhibit 275 for identification received in evidence.)

Mr. Christy: And Government's Exhibits 275-A-1 through 275-A-10.

(Government's Exhibits 275-A-1 through 275-A-10 for identification received in evidence.)

By Mr. Christy:

Q. Mr. Barnes, I believe you told us a few minutes ago that the Arlington Hotel kept cash books? A. They do.

Q. They do, and are the payments by the guests recorded in those cash books by date? A. They are.

Q. And those cash books are records kept in the regular course of business, are they not? A. That is right.

Mr. Christy: Your Honor, may we mark this little dolly over here, with the cases in it, as one—

The Court: What kind of dolly? You mean the bin—

Mr. Christy: The bin.

The Court: —with all these records?

Mr. Christy: Yes.

The Court: Very well, all right.

(1122) Mr. Christy: As one exhibit.

The Clerk: Government's Exhibit 276.

The Court: No, that will be Government's Exhibit 275-B.

Mr. Christy: That is right.

The Court: This all relates—I assume it does.

Mr. Christy: That is right, your Honor.

Mark the handle on the box.

The Court: Have you a tag? Could put a tag on it.

(Marked Government's Exhibit 275-B for identification.)

Mr. Christy: May the record indicate that Government's Exhibit 275-B for identification consists of seven packing cases in each of which cases there are three cash books? So that there are 21 cash books in all.

Q. Mr. Barnes, would you be good enough to stand up and look at Government's Exhibit 275-B and tell us if those are the cash books of the Arlington Hotel? A. They are the cases I sent the books in.

Q. Will you step down and take a look, then, at the books, sir?

(Witness leaves the stand.)

(1123) The Court: Was a subpoena served upon the Arlington Hotel to produce cash books?

The Witness: It was.

The Court: Were they packed in cases similar to those?

The Witness: That is right.

The Court: Now, go over and look at the cases and tell us if they look like the ones you sent.

Do you propose to put the books in?

Mr. Christy: I don't, your Honor.

The Court: In any more definite way than this?

Mr. Christy: I propose to put in a schedule prepared from these books.

The Court: From those books?

Mr. Christy: Yes, your Honor.

The Court: Very well.

Are they nailed up?

The Witness: They are the cases that I shipped.

The Court: Those are the cases you shipped?

The Witness: Yes.

Mr. Christy: They are not nailed, your Honor.

The Court: All right.

The Witness: Those are our books.

The Court: Very well.

(Witness resumes the stand.)

(1124) *By Mr. Christy:*

Q. Mr. Barnes, have you a schedule of payments taken from the cash books marked Government's Exhibit 275-B? A. I have.

Q. May I have that, sir? A. (Handing paper to Mr. Christy.)

The Court: 275-B for identification.

Mr. Christy: For identification.

May we mark this Government's Exhibit 275-B-1, then?

The Court: Yes.

(Marked Government's Exhibit 275-B-1 for identification.)

Q. Mr. Barnes, I show you Government's Exhibit 275-B-1 for identification and I ask you if that is a schedule of payments by Frank Costello, prepared from the cash books which have been identified? A. It is.

Q. Is that an accurate schedule? A. Yes, it is.

Q. And does it list the date on which the payments were made? A. It does.

Q. It lists the amount of the payment? A. That is right.

Q. It lists the designation of the book from which the payment was noted? A. It does.

(1125) Q. And the page from the book? A. That is right.

Mr. Christy: Your Honor, the Government offers Government's Exhibit 275-B-1 for identification in evidence.

Mr. Fennelly: No objection, your Honor, subject to a check, of course, if we have an opportunity and time to make one of the records. And I wonder if we could have a copy of this, please, to work from?

The Court: Of the schedule.

Mr. Christy: I will furnish Mr. Fennelly with a copy. The books will be available at any time Mr. Fennelly wishes to look at them.

(Government's Exhibit 275-B-1 for identification received in evidence.)

Mr. Christy: May I read these total figures, your Honor, from this?

The Court: You may: By years?

Mr. Christy: By years, yes, your Honor.

I am reading from Government's Exhibit 275-B-1 in evidence which is the schedule of the payments by Frank Costello of the Arlington Hotel.

In the year 1937, $682.06.

In the year 1938, $1,328.17.

In the year 1939, $1,413.72.

(1126) 1940, the sum of $1,015.51.

The year 1941, $896.51.

The year 1942, $1,025.89.

The year 1943, $753.83.

The year 1944, $638.61.

On this schedule that I have just read, your Honor, the payments in 1937 were subsequent to October 18th of that year.

The Court: Yes.

Q. Mr. Barnes, from this schedule I note that under "Remarks" on December 20, 1937 there is a figure, a long figure beginning with B, B00080456A. Can you tell us what that is? A. Well, when a guest pays with a large bill the cashier keeps a record of that bill. That is the bill number and the amount of the bill.

Q. How much was that bill? A. $500.

Q. Were there other payments with $500 bills? A. There was one 3/29 in 1941, and one 4/9/1941.

Q. Mr. Barnes, this schedule of payments by Frank Costello has been checked against the arrivals and departures according to your arrival and departure books and information sheets, is that correct? A. Yes.

Mr. Christy: No further questions, your Honor.

(1127) *Cross Examination by Mr. Fennelly:*

Q. Did you testify before the grand jury that returned the indictment in this case? A. No, sir.

Q. Now, this schedule that has been prepared, was that prepared by you personally or someone in the hotel? A. Not by me personally.

Q. If a check had been cashed and the hotel given cash for a check, that would appear on that schedule, too, would it? A. No, it would not; it would just show as a cash payment if it was a check.

Q. Yes, but would the amount be included in your schedule? A. Yes, if it was paid by cash it would be—the amount would be on the book.

Q. I don't know whether you understand.

The Court: The question was, if a guest at the hotel asked the cashier at the desk to cash a check for him and the check was cashed, would the amount of that transaction appear in the schedule which has been produced here?

The Witness: No, sir.

Q. And that would not appear in your cash books either? A. No.

Q. And suppose the guest asked the hotel, instead of cashing a check, for a hundred dollars and would sign a voucher for it, would that appear in your schedule? (1128) A. It would appear on his bill.

Q. And therefore would be included in your— A. It would be included in this amount that was paid.

Q. In that amount? A. That is right.

Q. At the Arlington there are baths, are there not? A. Yes, sir.

Q. And that is perhaps the most famous Spa in the United States, would you say? A. We feel so.

The Court: What else would you expect him to say?

Mr. Fennelly: Well, I thought that would be the answer.

Q. And what treatments do people go there for? A. Well, usually arthritis, neuritis, and rheumatism.

Q. And you have a medical staff attached to the bath? A. No, no, we don't have any doctor attached to the hotel. The Government refuses to allow us to have that.

Q. Well, there are doctors in the town who do have prescribe with relation to your baths? A. That is right.

Q. Do you also bottle mineral water? A. We don't.

(1129) Q. Is it bottled in Hot Springs, Arkansas? A. Well, there are a number of springs there that bottle water, but not the Hot Springs; the National Hot Springs water is not bottled.

Mr. Fennelly: That is all.

The Court: All right. You may step down.

Mr. Christy: Thank you very much, Mr. Barnes.

(Witness excused.)

Mr. Christy: The Government calls Hans Thomsen.

HANS THOMSEN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Christy:

Q. Mr. Thomsen, will you keep your voice up a little so that the last member of the jury may hear you?